

10/776,567

REMARKS

Claims 9-16 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the reasons noted in the official action. The rejected claims are accordingly amended, by the above claim amendments, and all of the presently pending claims are now believed to particularly point out and distinctly claim the subject matter regarded as the invention, thereby overcoming all of the raised § 112, second paragraph, rejections. The entered claim amendments are directed solely at overcoming the raised indefiniteness rejection(s) and are not directed at distinguishing the present invention from the art of record in this case.

Next, claims 9 and 11 are rejected, under 35 U.S.C. § 102, as being anticipated in view of Botterill et al. '235. The Applicant acknowledges and respectfully traverses the raised anticipatory rejection in view of the following remarks.

The Applicant thanks the Examiner for indicating that claims 10, 12-16 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claim(s). In accordance with this indication, the subject matter of claim 9 is incorporated into independent claims 12 and 13 and both of those amended independent claims are now believed to be allowable. As claims 14 and 15 both depend from amended independent claim 13, those dependent claims are also believed to be allowable.

Turning now to the remaining claims and considering the rejection of claim 9 over Botterill et al. '235 under 35 U.S.C. § 102(b), it is respectfully submitted that Botterill et al. '235 discloses an electrical adjustable motor 22 which is supported externally of the housing and not located within the distributor gear, see column 3, lines 43-44. As described in [008] of the present application, the disadvantage is that an electric motor located outside of the distributor gear does not provide the distributor gear with a favorable installation shape and also requires additional construction space because of the protruding electric motor.

Amended independent claim 9 now includes limitation of the electric motor (9) being "integrated within an intermediate gear (7) such that the intermediate gear (7) surrounds and

rotates around the electric motor (9)." This limitation is incorporated, by dependency, into dependent claims 10, 11 and 16-22. According to the presently claimed features, the presently claimed invention has the advantage that the distributor gear does not have any significant protruding parts, e.g., an electric motor, located on the out side of the gear box, and the distributor gear can be designed with an external shape that can be easily integrated into a power train, as more fully described in [014] of the specification.

As clearly shown in Fig.1 of Botterill et al. '235, substantially the entire electric motor (22) protrudes from the gear box. In view of this, it is respectfully submitted that Botterill et al. '235 does not in any way teach, suggest or disclose an electric motor (9) integrated within an intermediate gear (7) such that the intermediate gear (7) surrounds and rotates around the electric motor (9), as presently claimed. As such, it is respectfully submitted that Botterill et al. '235 does not in any way teach, suggest or disclose this aspect of the present invention.

In view of the forgoing amendments and remarks, the Applicant respectfully submits that claims 9 and 11, as well as new claims 17-22, are fully and patentably distinguished over and from the teachings and suggestions of Botterill et al. '235, under the requirements and provisions of 35 U.S.C. § 102(b), for the reasons discussed above. The Applicant therefore respectfully requests that the Examiner reconsider and withdraw all rejections of claims 9, 11 and 17-22, and allow the claims as amended herein above.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejection(s) should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejection(s) or applicability of the Botterill et al. '235 reference, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary

10/776,567

teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



Michael J. Bujold, Reg. No. 32,018

Customer No. 020210

Davis & Bujold, P.L.L.C.

Fourth Floor

500 North Commercial Street

Manchester NH 03101-1151

Telephone 603-624-9220

Facsimile 603-624-9229

E-mail: patent@davisandbujold.com